

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

KENSTON L. TAYLOR,

Petitioner,

v.

CIVIL ACTION NO. 5:08-cv-00017

T. R. CRAIG,

Respondent.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Petitioner's January 1, 2008 petition (Document No. 1) seeking relief pursuant to 28 U.S.C. § 2241, wherein the Petitioner challenges the BOP's computation of his sentence and his receipt of prior custody credit.

By *Standing Order* (Document No. 2) entered on January 11, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On October 22, 2010, the Magistrate Judge submitted *Proposed Findings and Recommendation* (Document 7) wherein it is recommended that this Court dismiss the Petitioner's petition as moot pursuant to the Petitioner's subsequent release from custody. Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*.

Accordingly, the Court **ADOPTS** and incorporates herein the substance of the findings of the Magistrate Judge as contained in the *Proposed Findings and Recommendation* specifically

finding that the issues raised by the Petitioner are moot as a result of the Petitioner's release from custody. The Court further **ADOPTS** the recommendation of the Magistrate Judge and **ORDERS** that the Petitioner's § 2241 petition (Document 1) be **DISMISSED**.

The Court has additionally considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: January 3, 2011



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA